



TOWN OF SOUTHAMPTON
ZONING BOARD OF APPEALS

APPLICATIONS WILL NOT BE ACCEPTED FOR FILING WITHOUT A VALID TAX MAP NUMBER, A HOUSE NUMBER, AN UP-TO-DATE SURVEY, PROPERTY DEED, AND A CERTIFICATE OF OCCUPANCY. ALL INCOMPLETE APPLICATIONS WILL BE RETURNED.

1. Original and ten (10) copies of application. (pages 5-8)
2. Original and ten (10) copies certificate form notarized for applicant and one (1) for owner (if owner is other than applicant). If a corporation or company appears on the certification form, list names of officers, original and ten (10) copies of Owners Endorsement Form (if applicable) and Open Government disclosure affidavit. (see pages 9-13)
3. Eleven (11) copies of the deed, lease or contract, and/or other information.
4. Eleven (11) copies of a certified abstract of single and separate ownerships for variances regarding undersized lots. Undersized lots must also submit information required by Southampton Town Code §330-167(H) and (I), where applicable.
5. Eleven (11) copies of a New York State Department of Environmental Conservation permit or letter of non-jurisdiction if property is within 300 feet of tidal waters.
6. Two (2) original, and Nine (9) photocopies of up-to-date surveys (dated within 6 months – 1 year) showing all buildings and structures that currently exist on the property, wetlands, percentage of existing lot coverage, and percentage of proposed lot coverage. **The lot coverage must be calculated by your surveyor and must appear on the current survey. Survey must also show all proposed structures and additions.**
7. If you are seeking a variance for height/pyramid relief please include two (2) original vertical cross-section sketches of the structure showing areas exceeding the Pyramid Law requirements. (See illustration – pg. 12). **Please have a licensed architect calculate the amount of square footage penetrating the pyramid, as well as a volume (cubic feet) calculation. Plans (sketches) must be sealed, signed and dated by the licensed architect.**

8. If property has any improvements, Eleven (11) copies of the Certificate of Occupancy, Certificate of Compliance and copies of any open Building Permits for all on site structures will be required.

DIRECTIONS

Answer all questions on the enclosed application form excluding date of hearing and application number.

1. Applications must be **typewritten or neatly printed in blue or black ink**, and submitted with one **(1) set of original documents** and **ten (10) copies** (total of 11) of the same in packet form to include the following in each packet:
 - I. Application and certificate or owners endorsement form.
 - II. Surveys, showing all details in connection with this application and prepared by a licensed surveyor.
 - III. Property deed.
 - IV. Certificate of Occupancy for the original dwelling/building and certificates of compliance for all accessory structures.
 - V. All other required documentation as applies (see cover page).

(If the property is located within 500 feet of water, or listed on the Town wetlands inventory, you must submit thirteen (13 copies.) (If the property is commercial or you are requesting to subdivide a parcel, submit twelve (12) copies.)

If the application is for relief from the Coastal Erosion Hazard Area, please submit thirteen (13) copies. The application will be referred to the Town Board, the Town Planning Development Administrator and the Town Chief Environmental Analyst.

2. Two sets of building plans. **Plans must be sealed, signed and dated.**
3. Filing Fee of \$500.00 must be presented with the application, payable to the Town of Southampton. If applying for relief from the Coastal Erosion Hazard Area a fee of \$1,000.00 is required.
4. If the Zoning Board of Appeals application is sought for improvements already constructed or installed without the prior required permits or approvals, the fee shall be increased to \$1,000.00.
5. **Filing fees are NON-REFUNDABLE.**
6. Financial Disclosure forms must be completed. (see attached)

NOTE: Upon notification of a hearing date, you will be required to mail all abutting neighbors a copy of your application and survey. Please retain a copy of each.

**APPLICATIONS ALONG WITH RELATED DOCUMENTS MUST BE COLLATED INTO
ELEVEN PACKETS (12 or 13 IF APPLICABLE)**

VARIANCES

One of the basic powers given by law to a Zoning Board of Appeals is called the “Variance” power. The Board has the authority to “vary” or modify the strict letter of a zoning ordinance or local law in cases where the benefit to the applicant outweighs the benefit to the neighborhood.

Appeals Boards are frequently confronted with requests for variances. There are two types of requests that come before the Board and the standards by which they are judged differ. A use variance is a request to utilize property for a use or activity which is not permitted by the zoning ordinance and the applicant must demonstrate “unnecessary hardship”. An area variance is a request for relief from dimensional standards contained in the zoning ordinance and takes into consideration the benefit to the applicant weighed against the detriment to the health, safety, and welfare of the neighborhood.

USE VARIANCE

An individual who wants to utilize property for a use that is not permitted by the zoning ordinance must apply for a use variance. An application for a use variance must demonstrate unnecessary hardship by satisfying each of the following four tests:

1. Uniqueness - The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone *and* that these features make it impossible to earn a reasonable return without some adjustment. If the features or conditions are generally applicable throughout the district a variance should not be granted. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the zoning ordinance, not a variance.
2. Reasonable Return – The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted by the zoning ordinance. There must be a “dollar and cents” proof of the applicant’s inability to realize reasonable return; speculation of qualitative assessment is inadequate. Failure to realize the highest return is not considered a hardship.
3. Character – The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the “spirit” of the ordinance or local law should be preserved.
4. Self-Created Hardship – The applicant must prove that the alleged hardship is not self-created.

The applicant for a use variance must meet all four tests before the Appeals Board may grant relief. A use variance should not be granted if the “unnecessary hardship” was created by the applicant. If the Appeals Board grants a use variance to an applicant who has failed to meet each of the tests, it runs the risk of assuming the function of the legislative body and making a decision contrary to the legislative intent of the zoning ordinance.

AREA VARIANCE

The Zoning Board of Appeals shall have the power, upon an appeal from a decision of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance.
3. Whether the requested area variance is substantial.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not preclude the granting of the area variance.

The Appeals Board should grant the minimum relief necessary to allow reasonable use of the land in question. An applicant is not automatically entitled to receive relief.

SUMMARY

The major difference between a use variance and an area variance involves the use of the property. An area variance results in a modification of physical restrictions so that an allowable use may be established on the property. By contrast, a use variance permits the establishment of a use which is prohibited by the zoning ordinance and the zoning map. It is for this reason that the standards established for an area variance.

BOARD OF APPEALS APPLICATION **Town of Southampton, New York**

C.O. Number _____ Application Number _____

Flood Zone _____ Subdivision Name _____

Lot No. _____ Parcel Size _____

SCTM# 473689-_____._____-_____._____

Parcel Location:

House Number _____ Street _____ Hamlet _____

1. _____
Applicant

Address _____ Telephone Number _____

NOTE: If applicant is not the owner, state whether applicant is owners' attorney, agent, architect, builder, consultant, general contractor etc.

2. _____
Owner

Address _____ Telephone Number _____

3. _____
Attorney (If Applicable)

Address _____ Telephone Number _____

4. _____
Surveyor

Address _____ Telephone Number _____

Please specify whom you wish correspondence to be mailed to from the above names listed.

Applicant Owner Attorney Surveyor

5. An Application is hereby made for:

An appeal from the Building Inspectors determination (330-165 A & B)

An area variance

A use variance

Other _____

6. The applicable provisions of the Zoning Ordinance from which relief is sought are:

Article § 330 - _____

Article § 330 - _____

Article § 330 - _____

7. Have any previous Variance applications or appeals been made with the respect to this property? If so, give date and name of each application.

8. Is the property in separate ownership from all adjoining properties?

Yes If yes, since what date? _____

No If no, which adjoining property is held by the same owner?

APPEAL

This appeal is taking from the determination of the Building Inspector dated _____

Concerning Section(s) _____ of the Town Code. The contested determination is incorrect in that:

AREA VARIANCE

9. This application is a request for an area variance from the provisions of Section(s) 330-_____ of the Town Code. This variance is for: (state in factual terms each variance requested, exact amount of each variance in feet or square feet, and whether variance is for existing or proposed structures).

10. Will the grant of the variance(s) cause an undesirable change in the character of the neighborhood or will it create a detriment to nearby properties? If not, please explain.

11. Can the benefits sought be feasibly achieved by some method other than an area variance? Please explain.

12. Will the variance(s) sought be substantial and if not, why not?

13. Will the grant of the variance(s) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or in the affected area of the Town? Please explain.

USE VARIANCE

17. What is the proposed use and how has the applicant met the four tests to demonstrate unnecessary hardship as outlined on page 3? Please be specific.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

CERTIFICATION

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss:

_____, being by me duly sworn, deposes and says:

1. I am interested in an application for a variance or special exception now pending before the Southampton Zoning Board of Appeals.

2. I _____ reside at _____

3. The nature of my interest in the aforesaid application is as follows:

If applicant or owner is a corporation , list officers:

President _____ Secretary _____

Vice Pres. _____ Treasurer _____

Do any of the following individuals have an interest as defined below in the owner or applicant:

- A. Any New York State officer, or
- B. Any officer or employee of Southampton Town or Suffolk County.

For the purpose of this disclosure an officer or employee shall be deemed to have an interest in the owner or applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:

- a. Is the applicant or owner, or
- b. Is an officer, director, partner, or employee of the applicant or owner, or
- c. Legally or beneficially owns or controls stock of a corporate applicant or owner, or is a member of a partnership or association applicant or owner, or
- d. Is a party to an agreement with such an applicant or owner, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered dependent or contingent upon the favorable approval of such application.

A person who knowingly and intentionally fails to make such disclosure shall be guilty of a misdemeanor as provided in General Municipal Law, Section 809.

Yes No If yes, state the residence and nature and extent of the interest of such individual.

Name _____ Residence _____

Sworn before me this _____

_____ day of _____ 20 _____ Signature of Applicant _____

OWNERS ENDORSEMENT

(TO BE SIGNED IF APPLICANT IS NOT OWNER)

STATE OF NEW YORK)
COUNTY OF SUFFOLK) SS:

_____, being duly sworn, deposes and says:

I _____ reside at _____.

In the County of _____ and the State of _____,

And I am the (owner in fee) (officer of the Corporation which is the owner in fee) of the premises described in the foregoing application and that I have authorized

to make the foregoing application as described herein.

Signature

Signature

If Corporation, name of corporation and Officers Title

Officers Title

Sworn before me this _____ day of

_____, 20____

Notary Public

Town of Southampton
OPEN GOVERNMENT DISCLOSURE FORM
(Zoning Board of Appeals, Planning Board, Conservation Board)

STATE OF NEW YORK }

} ss:

COUNTY OF SUFFOLK }

_____ being duly sworn, deposes and says:
Print Name

I am an applicant for a project or an owner of the land that is the subject of a pending application before the Southampton _____ Board. I make this affidavit under penalty and swear to the truth herein. I am aware that this affidavit is required by General Municipal Law §809 and Southampton Town Code Chapter 23 and that I shall be guilty of a misdemeanor should I knowingly or intentionally fail to make all disclosures herein. I am also aware that I may be subject to the penalties in Southampton Town Code §23-14 should I knowingly or intentionally fail to make all disclosures herein.

1. The project name is: _____

2. I reside at _____

3. The officers of the applicant corporation/owner corporation are as follows:

Pres. _____ Sec. _____

Vice Pres. _____ Treas. _____

4. Do any of the following individuals have an interest in the applicant or owner (as defined on page 13, note "A")?

	Yes	No
1. Any official of New York State	_____	_____
2. Any elected or appointed official or employee of Southampton Town or Suffolk County	_____	_____

If the answer to Question 4 is yes, General Municipal Law §809 and Town Code Chapter 23 require that you disclose the name and the nature and event of the interest of said individual(s) in the applicant or owner.

<u>Name</u>	<u>Residence</u>	<u>Nature of Interest</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. During the 24 months before the filing of this application, have any of the following individuals made campaign contributions exceeding \$500 in total, in cash or in kind, to the campaign for public office of any Town officer or employee, to any individual campaign committee, or to any political party committee designated to accept donations on such Town official's or employee's behalf as a candidate for public office?

	Yes	No
1. Owner	_____	_____
2. Applicant	_____	_____
3. Agent for owner or applicant	_____	_____
4. Attorney	_____	_____
5. Other	_____	_____

If the question to Question 5 is yes, Town Code Chapter 23 requires that the information be provided below:

<u>Name/Address</u>	<u>Amount/Date</u>	<u>Name of Campaign Committee</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. During the preceding 24 months before the filing of this application, have any of the following individuals employed any Town officer or employee or a relative thereof involving compensation in an amount of \$500 or more? Said compensation may be directly made, or indirectly made through a corporation or business interest held by any Town officer or employee or their relative.

	Yes	No
1. Owner	_____	_____
2. Applicant	_____	_____
3. Agent for owner or applicant	_____	_____
4. Attorney	_____	_____
5. Other	_____	_____

If the answer to Question 6 is yes, Town Code Chapter 23 requires that the information be provided below:

<u>Name</u>	<u>Position (Owner, Agent, Attorney, Other)</u>	<u>Corporation</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Signature

Sworn to before me
This _____ day
of _____.

Notary Public

**A FALSE STATEMENT MADE HEREIN IS PUNISHABLE AS A CLASS “A”
MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE
STATE OF NEW YORK**

- A. For the purposes of this disclosure, an official of the State of New York or an elected or appointed official or employee of the Town of Southampton shall be deemed to have an interest in the applicant and/or owner when that official or employee, their spouse, brothers, sisters, parents, children, grandchildren or the spouse of any of them is:
- a. the applicant or owner; or
 - b. an officer, director, partner, or employee of the applicant or owner; or
 - c. Legally or beneficially owns or controls stock of a corporate applicant or owner, or is a member of a partnership or association applicant or owner; or
 - d. Is a party to an agreement with the applicant or owner, express or implied, whereby said official or employee may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application. Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York Stock or American Stock Exchange shall not constitute an interest for the purposes of this disclosure.

IMPORTANT MESSAGE REGARDING HOUSE NUMBERS

As of March 31, 1994, Chapter 286 of the Southampton Town Code will require that all Town residents display house numbers so that they are clearly visible from the street. The law requires that you use only the number assigned by the Town. **NO OTHER NUMBER SHOULD BE DISPLAYED AND NO INSPECTIONS WILL BE DONE BY THE BUILDING DEPARTMENT AT PROPERTIES WITHOUT A HOUSE NUMBER.** If you have a different number for postal delivery, please file a change of address with your post office immediately. If your tax bill does not list a street number, or if you have a question regarding the law or the number assigned to you, please telephone Pat Raymond of the Assessors Office at 283-6000 extension 274.

The following is a description of the manner of display and the style and size of the required house numbers:

A. Manner of Display.

1. During construction period; the owner of a land parcel for which a building permit has been issued shall have the street address number displayed on a sign.
2. Existing and newly completed buildings. The owner of an existing building or newly completed building shall have the street address number displayed by permanently affixing or painting numerals, letters or script, stating the number, to the front of the building. Where the building is not close enough to the street, or is not readily visible from the street, the street address number shall be permanently affixed to a sign, post or mailbox located at the front of the parcel or lot where the building is situated.

B. Style and Size of Numbers.

1. The numerals, letters or script used to display the street address number of the building shall be painted on a plaque or the front of the building, or made of metal or other durable material. The numerals, letters or script shall be at least three (3) inches in height. All street address numbers shall be displayed as to be easily seen from the street by both pedestrians and drivers of vehicles.

The proper posting of your house number will assist the Building Department during the inspection process and ensure prompt and timely inspections.

(Typical) Vertical Cross-section drawing for Height/Pyramid Relief

